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NOT ADMITTED IN D.C.

August 10, 1995

VIA HAND DELIVERY

Mr. William F. Caton
Secretary
Federal Communications Commission
1919 M Street, N.W.
Room 222
Washington, DC 20554

RECEIVED

AUG 10 1995

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

Re: RM-8634
MM Docket No. 95-83
Comments of Emil Macha

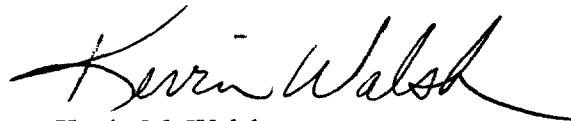
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Dear Mr. Caton:

Transmitted herewith on behalf of Emil Macha are the Comments of Emil Macha in response to the Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Littlefield, Wolfforth and Tahoka, Texas), Notice of Proposed Rule Making, MM Docket No. 95-83, RM-8634, DA 95-1271 (June 19, 1995). Please note that the Certification of Emil Macha is a facsimile copy. We will file the original as soon as we receive it in the mail.

If you have any questions regarding this matter, please contact the undersigned.

Respectfully submitted,


Kevin M. Walsh

Enclosure
P:KMW/4323000L.003

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**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20054**

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AUG 10 1995

**FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY**

In the Matter of)	
)	
Amendment of Section 73.202(b),)	MM Docket No. 95-83
Table of Allotments,)	RM-8634
FM Broadcast Stations,)	
(Littlefield, Wolfforth,)	
and Tahoka, Texas))	

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COMMENTS OF EMIL MACHA

Emil Macha ("Macha"), licensee of KZZN(AM), Littlefield, Texas, by its attorneys and pursuant to Sections 1.415 and 1.420 of the Commission's Rules, hereby comments on the above-captioned Notice of Proposed Rule Making ("NPRM"). As discussed below, Macha urges the Commission to allot Channel 240C3 to Littlefield, Texas in the event that it decides to reallocate Channel 238C3 from Littlefield to Wolfforth, Texas, or elsewhere. The allotment of Channel 240C3 to Littlefield would avoid stripping the community of its sole FM allotment. Macha intends to promptly apply for Channel 240C3 if it is allotted to Littlefield and promptly build the station if his application is granted.

Background

21st Century Radio Ventures, Inc. ("21st Century") filed a Petition for Rule Making ("Petition") to amend the FM table of allotments on April 6, 1995. In its Petition, 21st Century asked the Commission to institute a rule making proceeding in order to, inter alia, reallocate Channel 238C3 from Littlefield to Wolfforth, Texas. 21st Century noted that the reallocation would provide Wolfforth with its first local service.

21st Century stated that under Section 1.420(i) of the Commission's Rules, the holder of a construction permit may request a new community of license, provided that the proposed allotment is mutually exclusive with the present assignment. The engineering statement of duTreil, Lundin & Rackley ("duTreil"), attached to the Petition, demonstrates that the proposed allotment is short-spaced to the present assignment by 94.96 kilometers, thus making the proposed allotment mutually exclusive with the present assignment.

Significantly, 21st Century stated -- and duTreil demonstrated -- that grant of 21st Century's request to reallocate Channel 238C3 from Littlefield would allow the Commission to allocate Channel 240C3 to Littlefield, thus preventing Littlefield from being deprived of an FM allotment and future FM service. See Petition, Figures 5, 6, 7A, 7B, 8, and 9. According to duTreil, the allotment of Channel 240C3 to Littlefield would not cause any of the relevant stations to be short-spaced. Id.

Littlefield is an incorporated community of 6,489 residents, according to the 1990 U.S. Census. Littlefield is governed by its own city council (four council members) and mayor, all of whom are elected by city residents. Littlefield also has its own police and fire departments and independent school district. Further, Littlefield collects certain property taxes and serves as the seat of government for Lamb County.

On two prior occasions, the FCC deemed Littlefield worthy of having an FM allotment. See Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Hereford and Littlefield, Texas; and Texico, New Mexico), Report and Order, RM-6046, RM-6256, RM-6257, 3 FCC Rcd 6516 (1988) ("1988 Report and Order") (granting the allotment of Channel 238A to Littlefield); and Amendment of Section 73.202(b), Table of Allotments, FM Broadcast

Stations (Littlefield, Texas), Report and Order, RM-7442, 6 FCC Rcd 1503 (1991) (“1991 Report and Order”) (substituting Channel 238C3 for 238A at Littlefield).

If Channel 238C3 remains in Littlefield, 21st Century noted that it would service 35,214 people. That number, according to 21st Century, would increase to 251,733 people if the channel is reallocated to Wolfforth. However, 21st Century explained that 17,638 people who would have been serviced by Channel 238C3 in the Littlefield area would not receive service, thus the net gain of people serviced by the reallocation would be 216,519 persons.^{1/} That loss could be reduced to only 675 people if Channel 240C3 were allocated to Littlefield, according to 21st Century. Further, 21st Century stated that none of the 675 people who would not receive service if Channel 240C3 were allocated to Littlefield in place of Channel 238C3 are in areas with only one station or no stations at all; the 675 people are in areas served by three or more stations.

Following 21st Century’s filing of its Petition, the Commission issued its NPRM seeking comment on 21st Century’s proposals. The Commission noted that 21st Century’s proposals warrant consideration given the fact that Wolfforth would receive its first local service.

Discussion

Macha urges the Commission to allot Channel 240C3 to Littlefield, Texas in the event that it decides to accept 21st Century’s proposals and reallocate Channel 238C3 from Littlefield to Wolfforth, Texas, or elsewhere. The allocation of Channel 240C3 to Littlefield would prevent the community from being stripped of its only FM allocation and future local FM service. Furthermore, Macha intends to promptly apply for Channel 240C3 if it is allocated to Littlefield and promptly build the station if his application is granted.

^{1/} 21st Century noted that the loss in service to 17,638 people is theoretical because the FM Littlefield station has never been on the air.

According to 21st Century, the reallocation of Channel 238C3 would increase the number of people that its FM station would service from 35,214 in the Littlefield area to 251,733 in the Wolfforth area. However, it is important to note that the reallocation would exclude 17,638 people in the Littlefield area who would have been serviced by Channel 238C3. Significantly, that number could be reduced to just 675 people if the Commission substitutes Channel 238C3 with Channel 240C3 in Littlefield. Although the loss of 675 listeners is significant, it is important to note that 16,963 people who would otherwise not receive local FM service if the Commission only reallocated Channel 238C3 to Wolfforth (and failed to substitute it with Channel 240C3 in Littlefield) would receive local FM service if Channel 240C3 is allotted to Littlefield. It is also important to note that all of the 675 people, according to 21st Century, are in areas served by at least three stations.

According to the 1990 U.S. Census, Littlefield is an incorporated community of 6,489 residents. Littlefield is governed by its own city council (four council members) and mayor, all of whom are elected by city residents. Littlefield has its own police and fire departments and independent school district. Littlefield also collects certain property taxes and serves as the seat of government for Lamb County. Thus, Littlefield qualifies as an independent community under the Commission's standards. Revision of FM Assignments Policies and Procedures, Second Report and Order, BC Docket No. 80-130, 90 FCC 2d 88, 101 (1982) (noting that if a community is incorporated or listed in the U.S. Census, it qualifies as an independent community).

On two prior occasions, the FCC deemed Littlefield worthy of having an FM allotment. In its 1988 Report and Order, the FCC granted the allotment of Channel 238A to Littlefield following the filings of two counterproposals to a proposal to allot an FM channel to Hereford,

Texas. 1988 Report and Order, at 6516. In its 1991 Report and Order, the FCC upgraded Channel 238A to 238C3, stating that the public interest would be served by the upgrade since it could provide the community with a wide coverage area FM station. 1991 Report and Order, at 1503. Littlefield thus qualifies for an FM allotment and should, therefore, not be deprived of one.

The substitution of Channel 240C3 for Channel 238C3 in Littlefield would prevent Littlefield from losing its chance to have its only FM service. Thus, Macha urges the Commission to substitute Channel 240C3 for Channel 238C3 in Littlefield if it reallots Channel 238C3 to Wolfforth or elsewhere.

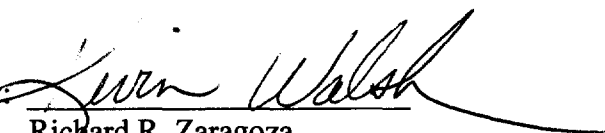
Conclusion

WHEREFORE, the premises considered, Macha respectfully requests that the Commission substitute Channel 240C3 for Channel 238C3 in Littlefield, Texas.

Respectfully submitted,

EMIL MACHA

By:


Richard R. Zaragoza
Kevin M. Walsh

Its Attorneys

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August 10, 1995
P:KMW/4323000P.001

Aug. 10. 1995 3:29PM

No. 1538 P. 2-7

CERTIFICATION OF EMIL MACHA

I, Emil Macha, licensee of KZZN(AM), Littlefield, Texas, do hereby certify that the independent facts asserted in the attached Comments of Emil Macha, dated August 10, 1995, are true and correct to the best of my knowledge, information, and belief.



Emil Macha

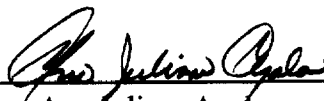
Date: 8-10-95

CERTIFICATE OF SERVICE

I, Ana Julissa Ayala, do hereby certify that I have this 10th day of August, 1995, mailed by first-class United States mail, postage prepaid, copies of the foregoing "**Comments of Emil Macha**" to the following:

* John A. Karousos
Acting Chief
Allocations Branch
Federal Communications Commission
2025 M Street, N.W.
Room 8322
Washington, D.C. 20554

James L. Primm
President
21st Century Radio Ventures, Inc.
713 Broadway
Santa Monica, CA 90401



Ana Julissa Ayala

***Hand Delivery**

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